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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,926	01/04/2007	Axel Oetken	4266-0117PUS1	9543
2292 7590 07/14/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER O'HARA, BRIAN M				
ART UNIT		PAPER NUMBER		
3644				
NOTIFICATION DATE		DELIVERY MODE		
07/14/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

### Office Action Summary

**Application No.**

10/559,926

**Applicant(s)**

OETKEN ET AL.

**Examiner**

Brian M. O'Hara

**Art Unit**

3644

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/17/2009 and correct 3/31/2010 O. Actn.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-10 and 12-22 are rejected under 35 U.S.C. 112, second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. **Claim 1** recites the limitation of "and lashing points being received in a stationary manner on the grid structure" on Lines 6 -7 which render the claim indefinite because it is unclear if the lashing points being referred to are the same as the lashing points listed on Line 3 of the claim.
4. **Claim 1** recites the limitations of:
- "erected operating position" in Line 10,
- "countersunk drive-over and stowage position" in Lines 10-11,
- "installation location" in Line 11, and
- "the stowed state" in Line 14.

There is insufficient antecedent basis for the above limitations in the claim.

5. **Claim 19** recites the limitation "guide units" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.
6. **Claims 4-7** recite the limitation "lashing point housings". There is insufficient antecedent basis for this limitation in the claim.

7. **Claims 2, 3, 8-10, 12-18, and 20-22** are rejected for being dependant upon Rejected Claim 1.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-3, 7-10, 13, and 14 rejected under 35 U.S.C. 102(b) as being anticipated by Shorey (US Patent 4,077,590 A).**
10. Regarding **Claim 1**, Shorey discloses a cargo-hold floor for aircraft, which is received on a grid structure comprising longitudinal members (91, alternatively Fig. 5 shows longitudinal members under deck 23) and crossmembers (50, alternatively Fig. 5 shows lateral members under deck 23) and in which are provided exchangeably arranged floor plates (33 and 31), roller conveyor apparatuses (165, 365) and also lashing points (53) for the fastening of cargo articles, such as pallets, containers or vehicles and articles of equipment, and with locking units (301, more specifically 308 and 308a) which comprise lock elements (308a and 323) capable of being folded open and of being folded away (See Fig. 18), and lashing points (53) being received in a stationary manner (as shown in Fig. 22) on the grid structure at intersection points of the longitudinal members (91) with the crossmembers (50), characterized in that both roller conveyor apparatuses (165, 365) integrated into the cargo-hold floor and locking units (301) can be received in their erected operating position (Figs 9 and 18) and in their

countersunk drive-over (Fig. 10 and shadow detail in Fig. 18) and stowage position at the installation location which always remains the same in the cargo-hold floor, and wherein the roller conveyor apparatuses and the locking units have smooth bottom surfaces (161 and 313) which can be driven over or walked on (161 and 313 are suitable to be driven over or walked on) in the stowed state (as shown in Figs 10 in solid lines and Fig 18 in shadow lines) of the roller conveyor apparatuses and of the locking units.

11. Regarding **Claims 2-3, 7-10, and 14**, Shorey discloses the cargo-hold floor as described above characterized in that: the roller conveyor apparatuses (165, 365) and the locking units (301, more specifically 308 and 308a) can be transferred, without a tool, from their erected operating position into their countersunk drive-over and stowage position (See Column 13, Lines 36-46); lashing point housings (51) and foundation housings (area housing element 32 in Figs. 9 and 10) of roller conveyor apparatuses (165) have bearing strips (bottom portions of 61 and 63, shown directly above longitudinal member 91 in Fig. 7) for floor plates (33) and/or locking units, said bearing strips being in alignment with a top edge (61 and 63 are directly above element 91) of the grid structure; floor plates (33) can be fastened exchangeably via fastening elements (97) to bearing strips (bottom portions of 61 and 63, shown directly above longitudinal member 91 in Fig. 7); lock carriers (301) are integrated into the floor plates (33, See Fig. 18); roller conveyor apparatuses (roller conveyor apparatus associated with element 31 as shown in Fig. 11 and 12) have foundation housings (65) which are connected to the grid structure (91) via fastening elements (97), and the foundation housings (65) contain

bearing surfaces (bottom of 65), on which upper parts of the roller conveyor apparatus (173) lie in the stowed state (See stowed position in Fig. 12 in shadow lines); the lock carriers (301) comprise foundation pits (area containing locking unit 301 in Fig. 18), into which the lock carriers (301) can be received in the stowed state (Stowed state shown in shadow lines); conveyor apparatuses (roller conveyor apparatus associated with element 31 as shown in Fig. 11 and 12) and/or the lock carriers have a fastening unit (197), the release grip (196) of which is accessible both from the underside and from the top side of the roller conveyor apparatuses or of the lock carriers.

12. Regarding **claim 13**, the plurality of lashing points (53) **can** be covered with a connecting plate having a force engagement point, the connecting plate being connected to these lashing points via heavy additional adaptors.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shorey.** Shorey does not disclose a height of approximately 30 mm between the top of the floor plate and the top of the roller when in the erected position, however, it would have been obvious to one of ordinary skill to provide a height of 30 mm since one of ordinary skill would have been able to determine the optimum size of the erected rollers based on cargo weight and size requirements.

***Allowable Subject Matter***

15. Claims 4-6, 12, 16-18, and 20-22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

16. The following is a statement of reasons for the indication of allowable subject matter:

**Claims 4-6** are indicated as comprising allowable subject matter because the prior art does not teach elastic filling bodies in the lashing point housing or use of a plug connector.

**Claim 12** is indicated as comprising allowable subject matter because the prior art does not teach the floor plates (33) having a seat-rail running peripherally around the floor plate.

**Claims 16-18** are indicated as comprising allowable subject matter because the prior art does not teach drainage orifices being arranged below the grid structure.

**Claims 20-22** are indicated as comprising allowable subject matter because the prior art does not teach a motor/gear unit for actuating the lock.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian M. O'Hara whose telephone number is (571)270-5224. The examiner can normally be reached on Monday thru Friday 10am - 5pm except the first Friday of every Bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael R. Mansen can be reached on (571)272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yvonne R. Abbott/  
for Michael Mansen, SPE of Art  
Unit 3644

/B. M. O./  
Examiner, Art Unit 3644